IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.21499 of 1999

Dated: 26-07-2006

Between:

N. Onkaraiah S/o N. Laxmanna, aged about 53 years,
Senior Foreman, Semi Conductor Division,
Components Group,
E.C.I.L., Moula Ali,
Hyderabad – 500 062.

... Petitioner

and

1. The Government of Andhra Pradesh,
   rep. by its Principal Secretary to Government,
   Social Welfare Department,
   Secretariat,
   Hyderabad and 4 others.

...
Respondents

ORDER:

This writ petition is filed seeking *mandamus* declaring the charge sheet issued in Proceedings ECIL:CG;SMD:1206 dated 17-08-1998 by the fourth respondent as illegal, arbitrary and violative of Article 21 of the Constitution of India and consequently set aside the

same.

2. This Court on 14-10-1999 while issuing *Rule Nisi* granted interim stay in W.P.M.P.No.26960 of 1999 and pursuant thereto the petitioner was allowed to continue in service. When the writ petition is taken up for final hearing, Sri V. Nagarjuna Babu, learned Counsel appearing for the petitioner submits that the petitioner was retired from service on
30-06-2006 on attaining the age of superannuation and produced proof of the same. In the light of the said superannuation, this Court is of the view that the departmental proceedings initiated against the petitioner cannot be considered further, unless there are specific rules for continuance of the said disciplinary proceedings.

3. The learned Counsel for the petitioner has also produced the Standing Orders issued in accordance with the provisions of Section 7 of the Industrial Employment (Standing Orders) Act, 1946 and in the said Standing Orders Clauses 28 to 30 deal with the disciplinary proceedings. Clause 28 deals with penalties for misconduct, Clause 29 deals with procedure for dealing with cases of misconduct and Clause 30 deals with special procedure in certain cases. In none of the clauses it is mentioned that irrespective of the fact that the delinquent employee attains the age of superannuation the disciplinary proceedings shall continue. In the absence of any clause, this Court is of the view that the said disciplinary proceedings automatically get terminated by virtue of the petitioner attaining the age of superannuation. This view of mine is fortified by the judgment of the Apex Court in **BHAGIRATHI JENA v. BOARD OF DIRECTORS.O.S.F.C.**[1], wherein the Apex Court has taken identical view. The relevant paragraph is as follows--

> "In view of the absence of such provision in the

abovesaid regulations, it must be held that the Corporation had no legal authority to make any reduction in the retiral benefits of the appellant. There is also no provision for conducting a disciplinary enquiry after retirement of the appellant and nor any provision stating that in case misconduct is established,
a deduction could be made from retiral benefits. Once the appellant had retired from service on 30-6-95, there was no authority vested in the Corporation for continuing the departmental enquiry even for the purpose of imposing any reduction in the retiral benefits payable to the appellant. In the absence of such authority, it must be held that the enquiry had lapsed and the appellant was entitled to full retiral benefits on retirement."

4. Having regard to these circumstances, this Court sees nothing to decide in this writ petition.

5. Accordingly, the writ petition is closed. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.26-07-2006
GLV

[1] AIR 1999 S.C.1841